IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10868 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DHARMISHTHABEN INDRAJITSINH RATHOD

Versus

STATE OF GUJARAT

Appearance:

MR AS SUPEHIA for the Petitioner.

Ms.Sonal Vyas, Assistant GOVERNMENT PLEADER, for Respondents No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 28/01/2002

ORAL JUDGEMENT

Rule. Ms.Sonal Vyas, AGP, waives service of Rule on behalf of the respondents.

The husband of the petitioner died while in service on 3.1.2000. After his death, the petitioner applied for compassionate appointment. It was requested by the petitioner that she may be absorbed as peon on compassionate ground. By order dated 3.2.2001, the prayer was rejected as per the order of the Additional Director General of Police (Administration). The prayer was rejected on the ground that the monthly income of the family of the deceased is Rs.2,817/-, which is more than the prescribed limit of Rs.2,500/-. While deciding the same, income of pension is also taken into consideration. The petitioner's application to reconsider the said decision was also rejected on 18.5.2001. Initially, the petitioner had applied for the post of Peon, but subsequently, she had made request to absorb her as Clerk. Being aggrieved by the said decision, this petition has been filed by the petitioner.

In view of the decision taken by this Court, one of which is produced at Annexure `E', in Special Civil Application No.6519 of 2001, income received by the family members by way of pension is not required to be taken into consideration. In the above view, the matter is required to be sent back to the Authority for taking appropriate decision regarding giving compassionate appointment to the petitioner. While fixing the income of the family of the deceased, the pension income received by the family may not be taken into consideration. It will be for the appropriate authority to take into consideration all other points while deciding the said application.

The matter is accordingly sent back to the authority for fresh decision. The said fresh decision may be taken within a period of three months from the date of receipt of the writ from this Court.

The petition is accordingly disposed of. Rule is made absolute accordingly with no order as to costs.

(P.B. Majmudar, J.)

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(apj)